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# Minimum Wage Increase.

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## Minimum Wage Increase. Initiative Statute.

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Official Title and Summary Prepared by the Attorney General

### MINIMUM WAGE INCREASE. INITIATIVE STATUTE.

- Increases the state minimum wage for all industries to \$5.00 per hour on March 1, 1997, and then to \$5.75 per hour on March 1, 1998.
- Requires the California Industrial Welfare Commission to adopt minimum wage orders consistent with this section, which orders shall be final and conclusive for all purposes.

#### Summary of Legislative Analyst's

#### Estimate of Net State and Local Government Fiscal Impact:

- The fiscal effect of this measure would depend on whether the federal minimum wage increase passed by Congress in August is signed into law. Because California's minimum wage must be at least as high as the federal rate, an increase in the federal rate would reduce the incremental fiscal effects of this measure.
- Unknown net impact on state and local government revenues, primarily depending on the measure's effect on the level of employment, income, and taxable sales in California.
- Annual state and local government wage-related costs of approximately \$300 million (about \$120 million if the federal minimum wage increase is enacted).
- Net annual savings in state health and welfare programs, potentially in the low tens of millions of dollars (\$10 million to \$15 million if the federal minimum wage is enacted).

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#### Analysis by the Legislative Analyst

#### PROPOSAL

This measure would increase the minimum hourly wage paid by employers to employees working in all industries in California to \$5.00 per hour beginning March 1, 1997, and to \$5.75 per hour beginning March 1, 1998.

At the time this analysis was prepared (early August), California's minimum wage was equal to the federal rate of \$4.25 per hour. However, the U.S. Congress had just passed legislation which would raise the federal minimum wage in two steps—to \$4.75 per hour this year and to \$5.15 per hour next year. If the President signs this minimum wage increase into law, California's minimum wage would automatically rise to the new federal rate. In this event, the net effect of this initiative when fully implemented in March 1998 would be to increase California's minimum wage from the new federal standard of \$5.15 per hour up to \$5.75 per hour.

#### BACKGROUND

Both state and federal law require that employers pay their workers a minimum hourly wage. Minimum wage standards were first enacted in California in 1916 and at the federal level in 1938 for the stated purpose of providing an adequate living standard. At present, state and federal laws are similar in terms of their scope and coverage. Where there are differences, employers usually must conform to the law providing the higher wage and broader coverage.

As of mid-1996, California and 38 other states had a minimum wage equal to the federal minimum wage of \$4.25 per hour. Eleven states had rates higher than the federal level, ranging from \$4.27 to \$5.25 per hour.

When this analysis was prepared, both the U.S. Senate and House of Representatives had passed legislation which would raise the federal minimum wage in two

steps—to \$4.75 per hour this year and to \$5.15 per hour next year. If the U.S. Congress reaches final agreement and this minimum wage increase is signed into law, California's minimum wage would automatically rise to the new federal rate. In this event, the net effect of *this* initiative when fully implemented in March 1998 would be to increase California's minimum wage from the new federal standard of \$5.15 per hour up to \$5.75 per hour.

**Who Is Covered by the Minimum Wage?** The categories of workers in California covered by the minimum wage have increased over the years so that most employees are now subject to the law. Some exceptions are actors and actresses, personal attendants (such as baby-sitters), and employers' family members. Our analysis assumes that the proposal would have no impact on who is covered by the minimum wage in California. However, depending on how the initiative is implemented, more or fewer employees could be covered by the measure than under existing law.

#### **Characteristics of Minimum Wage Workers.**

Approximately 2 million of California's nearly 13 million workers earn less than \$5.75 per hour. Most of these workers would be directly affected by this measure. Roughly one-fourth of those earning less than the proposed \$5.75 minimum wage are teenagers, while the remaining three-fourths are adults age 20 and over. Industries employing significant numbers of these workers include retail stores, child care facilities, restaurants, fast food franchises, clothing manufacturers, and nursing facilities.

**Past Changes in California's Minimum Wage.** The minimum wage in California has increased nine times in the past 30 years—rising from \$1.30 per hour in the mid-1960s to \$4.25 per hour as of July 1996. The increases have been less than the rate of inflation during this period.

### ***How the Minimum Wage Can Be Changed.***

California's minimum wage increases have usually occurred in one of two ways. The first is a change in the federal minimum wage, which as discussed above, results in an increase in California's minimum wage to the new higher federal level. The second is a state administrative process. Under this process, the California Industrial Welfare Commission can, by a majority vote of its members, issue "wage orders" to raise the state minimum wage for workers in any occupation, trade, or industry. The commission considers information from business, labor, and the public through a series of hearings. This process was last used by the commission in 1988, when it increased the minimum wage from \$3.35 per hour to \$4.25 per hour. This measure would require the Industrial Welfare Commission to issue minimum wage orders consistent with the proposed minimum wage increase.

### **FISCAL IMPACTS**

#### **Effects on the Economy**

Much of the fiscal impact of this measure would be related to its various effects on the economy, including changes in employment, prices, and profits. For example:

- Most employees earning less than the proposed minimum wage would earn more. They would also spend more on goods and services, thereby generating certain increases in economic activity.
- At the same time, however, employers would face higher wage costs, which they would either absorb in the form of lower profits or attempt to offset through a variety of means. For instance, they may attempt to shift or "pass along" the costs of the higher wages to consumers by raising prices of the goods and services they sell. Alternatively, some employers may offset the costs of the increase in wages by automating, hiring fewer workers (or reducing workers' hours), or limiting fringe benefits. Some businesses that are not able to shift the effects of the higher minimum wage may reduce economic activity in California. This would most likely occur in industries that have a large share of expenses for low-wage workers or that are subject to competition from other states and other countries.

In our view, an increase in the minimum wage would result in some decline in employment and business activity in California relative to what would otherwise have occurred. (If the federal minimum wage is increased, the economic effects attributable to this initiative would be less.)

#### **Effects on State and Local Revenues**

The measure would have varying impacts on state and local revenues. For instance, a reduction in business activity, employment, and income in California would result in lower income tax revenues. These declines could be offset, however, by increased spending on goods subject to the sales tax. Higher sales taxes would occur if businesses raised prices of taxed goods in response to the increase in the minimum wage, and this increase is not offset by reduced quantities of goods sold. Sales taxes could also increase if those receiving the higher minimum wage spent a relatively high portion of their new earnings on goods subject to the sales tax.

The net impact on state and local revenues is unknown.

### **Effects on State and Local Costs**

The effects of this measure on state and local costs would depend on whether the federal minimum wage increase is enacted. The costs and savings identified below are based on a comparison between the proposed \$5.75 per hour rate and the \$4.25 per hour rate in effect in July 1996. If the federal minimum wage is raised to \$5.15 per hour, the effects attributable to this measure would be about 40 percent of these amounts.

**Costs for Private Service Providers.** State and local governments provide various public services—primarily in the health and welfare area—that use low-wage, private sector employees. The increase in the minimum wage would directly raise these costs in three specific areas by a combined total of approximately \$225 million.

- **In-Home Supportive Services.** This program provides services to low-income aged, blind, or disabled persons who are unable to remain safely in their own homes without assistance. In this area, the state would experience added annual costs of about \$130 million and counties would experience added costs of about \$70 million for wage increases for approximately 170,000 service providers.
- **Medi-Cal Nursing Facility Rates.** The state would incur added annual costs of approximately \$13 million for nursing facility reimbursement rates under the Medi-Cal Program because of the added salary costs for employees. This component of Medi-Cal provides long-term nursing care for certain low-income persons.
- **Child Care Programs.** Increased state costs for child care programs administered by the Departments of Education and Social Services would total several million dollars annually (probably less than \$10 million in total), due to increased wages to care providers.

**Costs for Governmental Employees.** The increases in the minimum wage would directly increase costs to state and local governments for those employees who earn less than the proposed minimum wage. There are relatively few public sector employees in this category. We estimate that added costs for these employees would be less than \$15 million annually.

**Other Costs.** The higher minimum wage would have a variety of other, more indirect, effects on state and local government costs. For instance, a minimum wage increase would result in higher wages for some workers earning above the new higher minimum wage. This would result in additional costs—potentially in the tens of millions of dollars. Likewise, any increase in inflation resulting from the initiative (to the extent businesses "pass along" the higher minimum wage costs to consumers) would result in added public costs. The magnitude of these costs is unknown.

**Public Sector Savings.** Families with limited income currently qualify for public assistance in California, with benefit levels generally being phased out as a recipient's income rises. By raising the earnings of some public assistance recipients, this measure would result in reduced state costs. These savings, primarily in the Medi-Cal and Aid to Families with Dependent Children (AFDC) programs, would likely be in the tens of millions of dollars annually. On the other hand, the measure's impact on business activity would increase public assistance payments to some people who lose their jobs. These costs would partially offset the public assistance savings noted above.

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For text of Proposition 210 see page 94

**Argument in Favor of Proposition 210**

**HARD WORKING CALIFORNIANS DESERVE A LIVING WAGE.**

**THE MINIMUM WAGE BUYS YOU LESS TODAY THAN AT ANY TIME IN THE PAST 40 YEARS.**

California's minimum wage is at a forty-year low. The value of California's minimum wage has dropped 26% in eight years. A full-time minimum wage worker's income is 32% below the federal poverty line for a family of three.

**PROP. 210 RAISES THE MINIMUM WAGE, HELPING TO LIFT MILLIONS OF CALIFORNIANS OUT OF POVERTY.**

California hasn't raised the minimum wage since 1988. Prop. 210 brings it to \$5.00/hour in 1997 and to \$5.75/hour in 1998, restoring its purchasing power.

Two million workers would get an overdue raise. Most work for profit-making businesses. 175,000 minimum wage workers care for elderly and disabled Californians.

**PROP. 210 REWARDS HARD WORK. TODAY, MINIMUM WAGE WORKERS EARN LESS THAN PEOPLE ON WELFARE.**

The current minimum wage punishes hard work. Many minimum wage workers must supplement their low pay with food stamps and welfare. According to California Department of Social Services estimates, a \$5.75/hour minimum wage would mean smaller welfare payments to tens of thousands of working poor. Taxpayers would save \$21,000,000 in welfare costs, and millions more in food stamp reductions.

Work should pay better than welfare. Prop. 210 promotes a work ethic. With Prop. 210, 120,000 California household members will become less dependent on welfare.

**CALIFORNIA'S ECONOMY WILL BENEFIT. CONSUMERS WILL HAVE MORE MONEY TO SPEND.**

Minimum wage workers spend their paychecks on food, clothing and other basic necessities. Prop. 210 gives consumers more money to spend, boosting California's economy. Rising wages mean increased sales and profits. Thousands of

California jobs were created after the last increase in 1988. Increasing the minimum wage is sound economic policy.

**WHILE THE GOVERNOR, LEGISLATORS, AND CORPORATE EXECUTIVES HAVE ALL GOTTEN BIG PAY RAISES, THE MINIMUM WAGE HAS BEEN FROZEN.**

Since 1988, corporate CEO pay is up 108%. Corporate profits are up 68%. Inflation is up 26%. But the California minimum wage has not increased.

Middle class and working people are falling behind. The lowest paid are hit the hardest. Prop. 210 is a modest raise for people who play by the rules and contribute to our economy. It's long overdue.

**BECAUSE GOOD PAYING JOBS ARE HARDER TO FIND, IT'S MORE IMPORTANT THAN EVER THAT CALIFORNIA HAS A FAIR MINIMUM WAGE.**

Corporate downsizing has thrown hundreds of thousands of California workers out of good paying jobs. Many discarded workers have taken low paying retail, fast food, and service sector jobs. Today, a living minimum wage is important to more and more workers.

Prop. 210 rebuilds a wage floor that collapsed. Prop. 210 doesn't even fully restore the value the minimum wage had in the 1970's. It will help two million California workers put food on their families' tables. People who work hard should not live in poverty.

**LET'S PUT A POSITIVE VALUE ON HARD WORK. PLEASE VOTE YES ON PROPOSITION 210.**

**REV. KATHRYN COOPER-LEDESMA**  
*President, California Council of Churches*

**DR. REGENE MITCHELL**  
*President, Consumer Federation of California*

**HOWARD OWENS**  
*Legislative Director, Congress of California Seniors*

**Rebuttal to Argument in Favor of Proposition 210**

It sounds simple: Raise the minimum wage, reward hard work, and strike a blow against society's inequalities. It's an emotional argument that blurs the truth and makes people forget one important economic lesson: There's no such thing as a free lunch.

**UNFORTUNATELY, PASSAGE OF PROPOSITION 210 WILL PUT PEOPLE OUT OF WORK AND ONTO WELFARE.**

The likely federal increase in the minimum wage will hurt California small businesses, but Proposition 210 will add even MORE costs onto businesses, put MORE people out of work, and increase consumer prices EVEN MORE. Fortunately, there IS something you can do about Proposition 210.

The vast majority of the 22,000 members of the American Economic Association agree that increasing the minimum wage WILL INCREASE UNEMPLOYMENT among young, unskilled workers. This 35% hike in the minimum wage paid by businesses will be one of the biggest increases in California history. And, it will hit just when the state is recovering from a long recession.

**PROPOSITION 210 WILL MEAN LAYOFFS, REDUCED HOURS AND LOST OPPORTUNITIES.** Studies show minimum wage increases make it harder for people to get off welfare by making it tougher for low-skilled workers to get jobs. With more unemployed, more people will need taxpayer assistance and crime will increase.

There are better ways to help the working poor, but they're less politically attractive to the labor unions and politicians who are paying for Proposition 210.

Vote "NO" on Proposition 210.

**PROFESSOR MILTON FRIEDMAN**  
*Nobel Laureate in Economics*

**PROFESSOR WILLIAM R. ALLEN**  
*Former President, Western Economic Association*

**PROFESSOR MICHAEL DARBY**  
*Former Undersecretary for Economic Affairs,  
United States Department of Commerce*

## Argument Against Proposition 210

Before you decide how to vote on Proposition 210, please consider our side. We aren't politicians or professors, and we're not corporate CEOs. We're small business owners. We struggle to make ends meet and, with other small business owners, are the backbone of the state's economy.

**PUT SIMPLY, PROPOSITION 210 WILL PLACE ADDITIONAL BURDENS ON SMALL BUSINESSES WE CANNOT BEAR.** Congress is already considering increasing the minimum wage. Now, labor unions want to raise California's even higher. **THAT'S GOING TO PUT SOME OF US OUT OF BUSINESS. MANY WILL HAVE TO LAY OFF WORKERS. OTHERS WILL CUT HOURS.** And still others will postpone hiring new employees at a time when California's unemployment rate is among the highest in the nation.

Who is going to pay for these wage increases? Small business owners like us. Folks like you will pay through higher prices. Young people, recent immigrants and former welfare recipients will pay, because **THERE WILL BE FEWER ENTRY LEVEL JOBS.**

Only five percent of the work force currently earns minimum wage—mostly teenagers with part-time jobs or young adults just starting out. **BUT FOR THOSE OF US SMALL BUSINESS OWNERS STRUGGLING TO SURVIVE, THESE FORCED WAGE INCREASES WILL BE A CRUSHING BLOW.**

Consider our plights:

- I'm Sheldon Grossman. I own a car wash in Long Beach that employs 20 people at minimum wage. *Proposition 210 will force me to increase their pay 35%, or \$1.50 an hour. That's \$88,000 more a year just in salary increases.* And that's just minimum wage employees. Others who have earned raises over time, will expect more, and increases in Social Security and workers' comp costs will be a further

burden, too. We're talking about \$150,000 a year. I can't afford that kind of increase.

- I'm Connie Trimble. I own a small family restaurant in Burbank. *I'll be forced to pass on these wage increases to my customers, many of whom are senior citizens on fixed incomes.* My minimum wage employees make good money in tips but I will be forced to give them a pay raise totalling 35%. I don't know if my business can survive that hit.
- I'm Bill Merwin. I own a family farm near Sacramento. All our employees earn more than the minimum wage, but any increase will push up our wage scale. We now hire and train employees, but, if Proposition 210 passes, we will only hire *trained* employees. Since I don't set the price of the food I grow, I can't pass on the extra costs to my customers. A big wage increase would be devastating to my family and many other small farmers.

Chances are your corner grocer, your favorite diner owner and the family farmer closest to you oppose Proposition 210, as does the Small Business Survival Committee, California Chamber of Commerce, and National Federation of Independent Business.

**PLEASE THINK ABOUT US. AND THINK ABOUT OUR EMPLOYEES, WHO JUST NEED EXPERIENCE TO GET A CHANCE. PLEASE VOTE "NO" ON PROPOSITION 210.**

**SHELDON GROSSMAN**

*Owner, Bixby Knolls Car Wash, Long Beach*

**CONNIE TRIMBLE**

*Owner, Barron's Family Restaurant, Burbank*

**WILLIAM H. MERWIN**

*Owner, Hunn & Merwin & Merwin Farm, Yolo County*

## Rebuttal to Argument Against Proposition 210

"Most small businesses . . . pay more than the minimum wage. I hate to see small business portrayed as being on the bandwagon against a minimum wage increase."

Scott Hauge, Vice-President  
125,000 member California Small Business Association

In fact, the biggest low-wage employers include billion-dollar fast food and retail chains, not small businesses.

Since 1916, opponents have cried "the sky is falling" every time the minimum wage was increased. Yet business keeps growing. Princeton economist David Card found California's employment actually rose after our 1988 minimum wage increase.

Since 1988, corporate CEO pay has more than doubled. Corporate profits have skyrocketed. But California's minimum wage has not increased even once.

Because of inflation, the minimum wage buys less now than at any time in the past 40 years. We're on the wrong track when hard work pays less than welfare. Proposition 210 rewards work by making it more profitable than welfare.

Congressional proposals are inadequate. The proposed federal minimum wage still leaves a California family of three \$2,300 a year below the poverty line. Proposition 210 raises this family much closer to the poverty line. California's cost of living is higher than states like Mississippi. We need a higher minimum wage.

California has the lowest minimum wage on the West Coast. Oregon and Washington have higher state minimum wages, lower unemployment and lower child poverty rates than California.

Californians need a Living Wage.

League of Women Voters and California Labor Federation recommend YES ON PROPOSITION 210.

**KENNETH ARROW**

*Nobel Prize Laureate in Economics,  
Stanford University*

**CLIFF WALDECK**

*President, California Small Business Owners Alliance*

**HON. HILDA SOLIS**

*Chair, California State Legislature Women's Caucus*

enforcement agency; and a brief description of the threat. No more than five thousand dollars (\$5,000) in surplus campaign funds may be used; cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds became surplus campaign funds. The candidate or elected officer shall reimburse the surplus campaign fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds; upon sale of the property on which the system is installed; or prior to the closing of the surplus campaign fund account; whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

(b) The payment of the outstanding campaign expenses:

(c) Contributions to any candidate, committee, or political party, except where otherwise prohibited by law:

(d) The pro rata repayment of contributors:

(e) Donations to any religious, scientific, educational, social welfare, civic, or fraternal organization no part of the net earnings of which inures to the benefit of any private shareholder or individual or to any charitable or nonprofit organization which is exempt from taxation under subsection (c) of Section 501 of the Internal Revenue Code or Section 17214 or Sections 23701a to 23701j, inclusive, or Section 23701h, 23701n, 23701p, or 23701s of the Revenue and Taxation Code:

(f) Except where otherwise prohibited by law; held in a segregated fund for future political campaigns; not to be expended except for political activity reasonably related to preparing for future candidacy for elective office:

SEC. 42. Section 89519 of the Government Code is repealed.

89519. Upon leaving any elected office; or at the end of the postelection reporting period following the defeat of a candidate for elective office; whichever occurs last; campaign funds raised after January 1, 1989; under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100) and shall be used only for the following purposes:

(a) (1) The payment of outstanding campaign debts or elected officer's expenses:

(2) For purposes of this subdivision, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office; or both; of a candidate or elected officer who has received threats to his or her physical safety shall be deemed an outstanding campaign debt or elected officer's expense; provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat; the name and phone number of the law enforcement agency; and a brief description of the threat. No more than five thousand dollars (\$5,000) in surplus campaign funds may be used; cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds became surplus campaign funds. The candidate or elected officer shall reimburse the surplus campaign fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds; upon sale of the property on which the system is installed; or prior to the closing of the surplus campaign fund account; whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

(b) The pro rata repayment of contributors:

(c) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization; where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer; any member of his or her immediate family; or his or her campaign treasurer:

(d) Contributions to a political party or committee so long as the funds are not used to make contributions in support of or opposition to a candidate for elective office:

(e) Contributions to support or oppose any candidate for federal office; any candidate for elective office in a state other than California; or any ballot measure:

(f) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions; including payment for attorney's fees litigation which arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer; including, but not limited to; an action to enjoin defamation; defense of an action brought of a violation of state or local campaign; disclosure; or election laws; and an action arising from an election contest or recount:

SEC. 43. Section 89519 is added to the Government Code, to read:

89519. Any campaign funds in excess of expenses incurred for the campaign or for expenses specified in subdivision (d) of Section 85305, received by or on behalf of an individual who seeks nomination for election, or election to office, shall be deemed to be surplus campaign funds and shall be distributed within 90 days after withdrawal, defeat, or election to office in the following manner:

(a) No more than ten thousand dollars (\$10,000) may be deposited in the candidate's officeholder account; except such surplus from a campaign fund for the general election shall not be deposited into the officeholder account within 60 days immediately following the election.

(b) Any remaining surplus funds shall be distributed to any political party, returned to contributors on a pro rata basis, or turned over to the General Fund.

#### CONSTRUCTION

SEC. 44. This act shall be liberally construed to accomplish its purposes.

#### LEGISLATIVE AMENDMENTS

SEC. 45. The provisions of Section 81012 of the Government Code which allow legislative amendments to the Political Reform Act of 1974 shall apply to all the provisions of this act except for Sections 84201, 85301, 85303, 85313, 85400, and 85402.

#### APPLICABILITY OF OTHER LAWS

SEC. 46. Nothing in this law shall exempt any person from applicable provisions of any other laws of this state.

#### SEVERABILITY

SEC. 47. (a) If any provision of this law, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this law to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this law are severable.

(b) If the expenditure limitations of Section 85400 of this law shall be held invalid, the contribution limitations specified in Sections 85301 through 85313 shall apply.

#### CONFLICTING BALLOT MEASURES

SEC. 48. If this act is approved by voters but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this act shall be self-executing and given full force of the law.

#### EFFECTIVE DATE

SEC. 49. This law shall become effective January 1, 1997.

#### AMENDMENT TO POLITICAL REFORM ACT

SEC. 50. This chapter shall amend the Political Reform Act of 1974 as amended and all of its provisions which do not conflict with this chapter shall apply to the provisions of this chapter.

## Proposition 209: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE I

Section 31 is added to Article I of the California Constitution as follows:

SEC. 31. (a) *The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.*

(b) *This section shall apply only to action taken after the section's effective date.*

(c) *Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.*

(d) *Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.*

(e) *Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.*

(f) *For the purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the state.*

(g) *The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.*

(h) *This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.*

## Proposition 210: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Labor Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED LAW

##### LIVING WAGE ACT OF 1996

Section 1. The People of California find and declare that:

Because of inflation, Californians who earn the minimum wage can buy less today than at any time in the past 40 years;

At \$4.25 per hour, the current minimum wage punishes hard work. It is so low that minimum wage workers often make less than people on welfare;

Increasing the minimum wage will reward work by making it pay more than welfare;

Because good paying jobs are becoming so hard to find, it is more important than ever that California has a living minimum wage;

The purpose of the Living Wage Act of 1996 is to restore the purchasing power of the

minimum wage and to help minimum wage workers lift themselves out of poverty;  
To achieve that purpose, the Living Wage Act of 1996 will increase the minimum wage to \$5.00 per hour in 1997 and \$5.75 per hour in 1998.  
Section 2. Section 1182.11 is added to the Labor Code to read:  
*1182.11. Notwithstanding any other provision of this part, on and after March 1, 1997, minimum wage for all industries shall not be less than five dollars (\$5.00) per hour; on after March 1, 1998, the minimum wage for all industries shall not be less than five dollars and seventy-five cents (\$5.75) per hour. The Industrial Welfare Commission shall, at a public meeting, adopt minimum wage orders consistent with this section without convening*

*wage boards, which wage orders shall be final and conclusive for all purposes.*

Section 3. Name of Act.

This statute shall be known as the Living Wage Act of 1996.

Section 4. Severability.

It is the intent of the People that the provisions of this act are severable and that if any provision of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application.

## Proposition 211: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds sections to various codes; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

#### SECTION 1. TITLE

This initiative statute shall be known and may be cited as the "Retirement Savings and Consumer Protection Act."

#### SECTION 2. FINDINGS AND DECLARATIONS

The people of the State of California find and declare as follows:

(a) Millions of Californians work hard, pay their taxes, and save their money in order to provide for their economic security upon retirement. In doing so, they help support their state and local governments as taxpayers and insure that they do not become responsibilities of the state once they leave the workforce.

(b) Many Californians are members of or have contributed to private and public pension and retirement funds that invest in securities of corporations that are publicly traded or sold and other for-profit business entities. Many others invest their retirement savings themselves in such securities.

(c) Financial disasters like the collapse of many savings and loan institutions or the bankruptcy of Orange County result in devastating harm to the pensions and retirement savings of working people.

(d) Full and complete disclosure of material information affecting the value of securities is necessary to protect the millions of Californians who invest in them for their retirement. Existing laws inadequately protect pension and retirement investments in these securities from losses resulting from deceptive activities, including the misrepresentation or concealment of material information affecting the true value of these securities.

(e) An individual's retirement savings can also be threatened by an unexpected accident or injury. Unless victims of such accidents or injuries are able to obtain full compensation for their losses, they are often forced to use up their retirement savings to pay for medical bills or living expenses after their injury.

(f) Consumers, pension investors, and victims of injuries need access to the civil justice system to insure that they are fully compensated for their losses and damages. Ordinary working people are often denied such access because they cannot afford to hire an attorney to represent them. Proposals are being put forward daily that would limit people's right to contract with the attorney of their choice and make it more difficult for all but the very wealthy to obtain legal representation. These proposals include, but are not limited to, efforts to make it harder for people to find representation to protect their retirement savings and investments.

(g) In order to protect the retirement savings of all Californians, it is necessary to require full disclosure of material information that affects the value of securities or individual savings and to insure that the right to contract with an attorney to obtain compensation for injury or loss shall not be impaired, or subject to interference by the government.

#### SECTION 3. PROHIBITED CONDUCT

Section 25400.1 is added to the Corporations Code, to read:

*25400.1. It shall be unlawful, in connection with the purchase or sale of securities, for any person, for-profit corporation, or other for-profit business entity, directly or indirectly, to willfully, knowingly, or recklessly do any of the following that results in loss to any pension fund, retirement fund, or retirement savings:*

(a) *Make or cause to be made untrue statements of material facts.*

(b) *Omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.*

(c) *Participate or assist in any deceptive practice, statement, course of conduct, or scheme.*

*This section shall not apply to any government entity or to any government official acting in his or her official capacity.*

#### SECTION 4. CIVIL LIABILITY

Section 25500.1 is added to the Corporations Code, to read:

*25500.1. (a) In addition to any other provision of law, any person, for-profit corporation, or other for-profit business entity that willfully, knowingly, or recklessly engages in conduct prohibited by Section 25400.1 shall be liable for the losses caused by that violation, as determined in an action brought in a court of competent jurisdiction by or on behalf of any person or entity, including any government entity, whose pension funds or retirement funds or savings have suffered a loss as a result of that violation.*

*(b) To remedy harm to the public and to deter willful, outrageous, or despicable conduct in violation of Section 25400.1 that causes loss to pension funds, retirement funds, or retirement savings, any person who engages in such conduct shall be liable for additional damages in such amount as the finder of fact shall determine is necessary to punish the*

*wrongdoer and deter similar conduct by others, which civil penalty shall be paid, less fees and expenses, to the General Fund of the Treasury of the State of California.*

(c) *Any action under this section or under Section 1709 or 1710 of the Civil Code, in connection with the purchase or sale of securities may be brought as a class action; the fraud on the market doctrine shall apply; and it shall be presumed that the market value of a security reflected the impact of any prohibited conduct, and reliance upon any material misrepresentation or omission shall be presumed, subject to rebuttal by defendant establishing that the security would have been purchased or sold even if plaintiff had known of the misconduct. Any action under this section may also be brought derivatively, without regard to any limitations or requirements currently imposed on derivative actions.*

(d) *For purposes of this section and Section 25400.1, "retirement savings" means and includes:*

(1) *any tax advantaged retirement account or plan, whether group, individual, or joint, or*

(2) *any other form of retirement savings, however denominated and in whatever form, of a person over 40 years of age, if it had been in existence for over one year or had a value of one thousand dollars (\$1,000), or more before suffering any loss sought to be recovered under this title.*

(e) *Except as otherwise provided by law in effect on January 1, 1995:*

(1) *In any individual, class, or derivative action brought pursuant to this or any other section of the Corporations Code, including Section 800, or under Section 1709 or 1710 of the Civil Code, each party shall bear his, her, or its own fees and costs, provided, however, that:*

(A) *the power of the parties to agree to, or a court to award, fees and costs for plaintiffs' counsel in any class or derivative action shall not be restricted or impaired; and*

(B) *a party shall be entitled to recover his, her, or its reasonable attorneys' fees and costs incurred in the defense or prosecution of the action in the event the court finds that the opposing party's claims or defenses were frivolous.*

(2) *For purposes of this section, a frivolous claim or defense is one that is either (A) totally and completely without merit, or (B) filed for the sole purpose of harassing an opposing party.*

(3) *The right of any person, corporation, or other entity to contract with and pay counsel to pursue or defend any action, whether brought under this section or otherwise, shall not be restricted or the validity of such contracts be impaired.*

*Nothing in this section shall impair the authority of the courts to regulate the practice of law or to prohibit illegal or unconscionable fees.*

#### SECTION 5. ATTORNEY'S FEES

Section 6146.6 is added to the Business and Professions Code, to read:

*6146.6. Except as otherwise provided by law in effect on January 1, 1995, the right of any person, corporation, or other entity to contract with and pay counsel to pursue or defend any action shall not be restricted or the validity of such contracts be impaired. Nothing in this section shall impair the authority of the courts to regulate the practice of law or to prohibit illegal or unconscionable fees.*

#### SECTION 6. INDEMNIFICATION

Section 25505.1 is added to the Corporations Code, to read:

*25505.1. Notwithstanding any other provision of law, any principal executive officer, director, or controlling person of a corporation or other for-profit business entity who is found individually liable for knowingly or recklessly engaging in deceptive conduct, as prohibited by Section 25400.1, shall not be indemnified by the corporation or other for-profit business entity for any costs of defense or amounts paid in settlement or judgment against that person. Nothing in this section shall prohibit a corporation or other for-profit business entity from purchasing insurance on behalf of its directors, officers, employees, or agents to cover liability under this section.*

#### SECTION 7. RELATIONSHIP TO OTHER INITIATIVES

The people recognize that more than one initiative measure dealing with the general matters set forth in this measure may be on the ballot at the same time. It is the intent of the voters that the provisions in this measure be considered, for purposes of Section 10 of Article II of the California Constitution, to be in conflict with any other measure that would either restrict the right to bring securities fraud or misrepresentation actions or the procedures by which such actions are prosecuted, or which would restrict the right of a client and an attorney to contract freely with each other and to enforce such contracts.

#### SECTION 8. SEVERABILITY

If any provision of this act or its application to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

#### SECTION 9. AMENDMENT

The provisions of this act may be amended by a statute that becomes effective upon approval by the electorate.